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| B 104 (Rev. 2/92) | ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse) | ADVERSARY PROCEEDING NUMBER (Court Use Only) |
| PLAINTIFFS Robert B. Bartel | | DEFENDANTS Willard Dale Dahle |
| ATTORNEYS (Firm Name, Address, and Telephone No.) William L. Bodensteiner 309 South Main Austin MN 55912 | | ATTORNEYS (If Known) M Thomas Lenway 107 West Oakland Ave., PO Box 463 Austin MN 55912 |
| PARTY (Check one box only) <input type="checkbox"/> 1 U.S. PLAINTIFF <input type="checkbox"/> 2 U.S. DEFENDANT <input checked="" type="checkbox"/> 3 U.S. NOT A PARTY | | |
| CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) Proceeding to determine dischargability of debt 11 U.S.C. 523 and to deny discharge 11 U.S.C. 727 | | |
| NATURE OF SUIT (Check the one most appropriate box only.) | | |
| <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <input type="checkbox"/> 454 To Recover Money or Property <input type="checkbox"/> 435 To Determine Validity, Priority, or Extent of a Lien or Other Interest in Property <input type="checkbox"/> 458 To obtain approval for the sale of both the interest of the estate and of a co-owner in property <input checked="" type="checkbox"/> 424 To object or to revoke a discharge 11 U.S.C. § 727 </div> <div style="width: 33%;"> <input type="checkbox"/> 455 To revoke an order of confirmation of a Chap. 11, Chap. 12, or Chap. 13 Plan <input checked="" type="checkbox"/> 426 To determine the dischargeability of a debt 11 U.S.C. § 523 <input type="checkbox"/> 434 To obtain an injunction or other equitable relief <input type="checkbox"/> 457 To subordinate any allowed claim or interest except where such subordination is provided in a plan </div> <div style="width: 33%;"> <input type="checkbox"/> 456 To obtain a declaratory judgment relating to any of foregoing causes of action <input type="checkbox"/> 459 To determine a claim or cause of action removed to a bankruptcy court <input type="checkbox"/> 498 Other (specify) </div> </div> | | |
| ORIGIN OF PROCEEDINGS (Check one box only.) | | <input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed Proceeding <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from Another Bankruptcy Court |
| <input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 | | DEMAND \$ |
| OTHER RELIEF SOUGHT | | <input type="checkbox"/> JURY DEMAND Check only if demanded in complaint |
| BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES | | |
| NAME OF DEBTOR Willard Dale Dahle | | BANKRUPTCY CASE NO. 04-30864 |
| DISTRICT IN WHICH CASE IS PENDING Minnesota | DIVISIONAL OFFICE | NAME OF JUDGE Kishel |
| RELATED ADVERSARY PROCEEDING (IF ANY) | | |
| PLAINTIFF | DEFENDANT | ADVERSARY PROCEEDING NO. |
| DISTRICT | DIVISIONAL OFFICE | NAME OF JUDGE |
| FILING FEE (Check one box only.) <input type="checkbox"/> FEE ATTACHED <input type="checkbox"/> FEE NOT REQUIRED <input type="checkbox"/> FEE IS DEFERRED | | |
| DATE | PRINT NAME | SIGNATURE OF ATTORNEY (OR PLAINTIFF) |

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Willard Dale Dahle,

Debtor.

Bky No: 04-30864

Adv. No.:

Chapter 7

Robert Bartel,

Plaintiff,

vs.

Willard Dale Dahle,

Defendant.

COMPLAINT TO DETERMINE
DISCHARGABILITY OF DEBT
UNDER 11 U.S.C. §727 AND
EXCEPTIONS TO DISCHARGE
UNDER 11 U.S.C. §523

Robert B. Bartel, for his complaint against defendant states and alleges as follows:

JURISDICTION AND PARTIES

1. Debtor/Defendant filed a chapter 13 bankruptcy petition on February 17, 2004.

Subsequently the debtor voluntarily converted the chapter 13 case to one under chapter 7 on April 21, 2004. The plaintiff is a secured creditor.

2. This adversary action is brought under Rule 7004 of the bankruptcy rules and arises under 11 U.S.C. §§523 and 527. This court has jurisdiction under 28 U.S.C. §§1334 and 157, Local Rule 1070-1 and Bankruptcy Rules 4007 and 7001. This adversary proceeding is a core proceeding under 28 U.S.C. §§157(b)(2)(I) and (J).

FACTS

3. On the debtor's/defendant's Statement of Financial Affairs (question 1) the debtor states under oath that in 2003 he received \$13,200 from the "sale/trade of cattle for feed 2003".

4. That plaintiff cared for all of defendant's cows and calves for the period December of 2001 through August of 2002 and then again from December of 2002 until about April 29, 2003.
5. That as a result of the plaintiff's care of the debtor's/defendant's cattle, the plaintiff had a valid Feeder's Lien pursuant to MSA §514.966 subd. 4.
6. The plaintiff's Feeder's Lien was continuous from December, 2001 until at least the time of the debtor's/defendant's chapter 13 bankruptcy filing.
7. Plaintiff properly perfected his Feeder's Lien against all of the debtor's cattle on May 8, 2003.
8. The debtor/defendant paid none of the \$13,200 he received from the sale of the cattle in spite of the fact that during this time the plaintiff was entitled to all the proceeds from the sale of any cattle up to the amount the plaintiff was owed pursuant to his care for the cattle.
9. The plaintiff commenced a replevin proceeding against the debtor/defendant in May, 2003 in Mower County District Court, Minnesota.
10. The plaintiff has pursued the debtor/defendant for plaintiff's debt since April 30, 2003. Since that time the debtor/defendant has: persuaded the Mower County Attorney to file felony theft and felony cattle rustling charges against the plaintiff; appeared at the first replevin proceeding and persuaded the presiding judge to continue the hearing because mediation was required by the Minnesota Farmer-Lender Mediation Act; then, on the date of the rescheduled replevin motion, the debtor/defendant, without notice to the plaintiff, filed a chapter 13; the debtor/defendant's filed chapter 13 plan was not confirmable on its face in that it paid

the plaintiff, a fully secured creditor, nothing beyond what plaintiff would receive as a unsecured creditor which was about 37% of the claim without interest.

11. On January 27, 2004, the Mower County District Judge issued an order prohibiting the debtor/defendant from removing his cattle from Mower County, Minnesota.

12. On February 27, 2004 the debtor/defendant attempted to sell seven (7) of those cattle by taking them to an auction barn in Fillmore County, Minnesota.

13. The plaintiff served the debtor/defendant Requests for Production of Documents on September 24, 2003 wherein, among other things, the plaintiff asked for the debtor/defendant's 2001 and 2002 state and federal income tax returns and any documents that the debtor/defendant had evidencing any payments to the plaintiff during that period.

14. The debtor/defendant has never produced any of the documents requested in the plaintiff's request for documents served on September 24, 2003.

15. The debtor/defendant has a number of tractors and other farm equipment that was not listed in his schedule B or C.

16. The debtor/defendant has several horses and one tractor in his possession that he claims do not belong to him and that were not described in his answer to question 14 (or any other question) in his Statement of Financial Affairs.

17. Debtor's/Defendant's Statement of Financial Affairs shows no income for 2004 and further shows that in 2003 he had farm income of \$28,200.

18. Debtor's/Defendant's schedule I shows no income from the cattle or hay business and further, the schedule I filed in the chapter 7 case has no indication whatsoever of business income or expenses on the I or J schedules.

19. On or about April 29, 2003, the debtor/defendant removed most of his cattle from the plaintiff's possession without the consent of the plaintiff while the plaintiff had a valid Feeder's Lien against these cattle.

COUNT I

(Exception to discharge pursuant to 11 U.S.C. §523(a)(4))

20. Plaintiff realleges and incorporates the allegations in paragraphs 1-19 as though fully set forth herein.

21. Accordingly, plaintiff is entitled to debtor's/defendant's debt to plaintiff is excepted from discharge pursuant to 11 U.S.C. §523(a)(4) because the removal of the cattle by debtor/defendant from plaintiff's possession on or about April 29, 2003 was larceny.

22. The sale of \$13,200 worth of cattle by debtor/defendant in 2003 without paying any of the proceeds to the plaintiff was larceny.

COUNT II

(Exception to discharge pursuant to 11 U.S.C. §523(a)(6))

23. Plaintiff realleges and incorporates the allegations contained in paragraphs 1-22 as though fully set forth herein.

24. Plaintiff is entitled to judgment that debtor's/defendant's debt to plaintiff is excepted from discharge pursuant to 11 U.S.C. §523(a)(6) because defendant's conversion and use of the sale proceeds from the cattle without paying any of these

proceeds to the plaintiff was willful and malicious and resulted in injury to the plaintiff.

COUNT III
(Denial of discharge pursuant to 11 U.S.C. §727(a)(2))

25. Plaintiff realleges and incorporates the allegations contained in paragraphs 1-24 as though fully set forth herein.

26. The discharge of the debtor/defendant should be denied under 11 U.S.C. §727(a)(2) because the debtor/defendant, with intent to hinder, delay or defraud, the plaintiff transferred, moved, or concealed, or permitted to be transferred, removed or concealed property of the debtor/defendant within 1 year before the date of the filing of the petition.

COUNT IV
(Exception to discharge pursuant to 11 U.S.C. §727(a)(3))

27. Plaintiff realleges and incorporates the allegations contained in paragraphs 1-26 as though fully set forth herein.

28. The discharge of the debtor/defendant should be denied under 11 U.S.C. §727(a)(3) because the debtor/defendant has concealed or failed to keep or preserve any recorded information from which the debtor's/defendant's financial condition or business transaction must be ascertained without justification under all the circumstances or the case.

COUNT V
(Denial of Discharge Pursuant to 11 U.S.C. §727(a)(4))

29. Plaintiff realleges and incorporates the allegations contained in paragraphs 1-28 as though fully set forth herein.

30. The discharge of the debtor/defendant should be denied under 11 U.S.C. §727(a)(4) because the debtor/defendant knowingly and fraudulently made a false oath or account.

COUNT VI
(Denial of Discharge under 11 U.S.C. §727(a)(5))

31. Plaintiff realleges and incorporates the allegations contained in paragraphs 1-30 as though fully set forth herein.

32. That the debtor/defendant should be denied a discharge under 11 U.S.C. §727(a)(5) because the debtor/defendant will not satisfactorily explain, before determination of denial of discharge under this paragraph, any loss of assets or deficiency of assets to meet the debtor's/defendant's liabilities.

WHEREFORE, plaintiff demands judgment denying debtor/defendant's discharge or alternatively excepting plaintiff's claim from discharge herein, and for such other relief as is just, including reasonable costs and attorney fees.

Dated: July 26, 2004

/e/ William L. Bodensteiner
William L. Bodensteiner #149093
Attorney for Plaintiff
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